

## ❖ **NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEMS (NPDES) AND MUNICIPAL STORMWATER PERMITS**

Urban areas that collect stormwater runoff in municipal separate storm sewers and discharge it to surface waters are required to have a permit under the federal Clean Water Act. The [Environmental Protection Agency \(EPA\) stormwater regulations](#) established two phases (Phase I and Phase II) for the municipal stormwater permit program. The Department of Ecology develops and administers National Pollution Discharge Elimination System (NPDES) municipal stormwater permits in Washington State.

The National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permits cover discharges from municipal separate storm sewers. Phase I of the municipal stormwater program went into effect in 1990 and apply to municipalities with populations of more than 100,000.

The Phase II Municipal Stormwater Permit rule extends the coverage of the National Pollutant Discharge Elimination System (NPDES) program to certain "small" municipal separate stormwater sewer systems (MS4s). Ecology issued two Phase II permits: one for Eastern Washington and one for Western Washington.

A number of Washington cities and counties have adopted storm water management programs pursuant to State and Federal law. These permits authorize the city or county to design and operate a separate storm sewer system. These permits are required by Federal law and are issued by the Washington Department of Ecology (WDOE).

Washington State's Storm Water Management Program addresses new development and re-development. The design and re-development of storm water systems (e.g., road ditches, culverts, and storm water retention facilities) damaged by a disaster. These should comply with permit conditions and applicable technical design requirements, as required by eastern or western Washington technical design manuals. Additional information is available at WDOE website under Municipal Stormwater Permits:

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/index.html>

The WDOE contacts for municipal stormwater permits are found on the WDOE website at: <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/municontracts.html>.

### **I. WASHINGTON COASTAL ZONE MANAGEMENT (CZM) PROGRAM**

Washington Department of Ecology administers the Coastal Zone Management Act (CZMA). The program applies to all of the fifteen coastal counties as well as activities outside those counties, which may impact Washington's coastal resources. Most (but not all) activities and development outside the coastal zone are presumed to NOT impact coastal resources.

In brief, any public federal project licensed or permitted by a federal agency, or private project licensed or permitted by a federal agency, or carried out with a federal grant, MUST be determined to be consistent with the state's CZM program. The determination process, known

as “federal consistency”, allows the public, local governments, tribes, and state agencies to review federal actions likely to affect Washington’s coastal resources or uses.

There are three categories of activities which trigger a “federal consistency” review:

- 1) activities undertaken by a federal agency,
- 2) activities which require federal approval, and
- 3) activities which use federal funding.

Each of these activities has different federal consistency requirements. The WDOE has issued a letter determining *repair to structures to pre-disaster condition do not need individual review; provided that the projects do not include shoreline, beach dock/repair, rip rap in the nearshore/riverbank projects*. If your project does not meet this exemption and you anticipate a project which will require federal approval and/or federal funding, then a CZM certificate must be completed and filed. It is the responsibility of the Applicant or the person performing the work to send a copy of the consistency certification form to the USACE, WDFW, and WDOE as part of the JARPA package. FEMA cannot fund a project unless consistency has been obtained by the applicant. The one page Consistency Certification form can be found at:

<http://www.ecy.wa.gov/pubs/ecy070130.pdf>.

Applicants shall provide a copy of their Consistency Determination to FEMA or State Public Assistance Coordinators.

Additional information can be obtained from WDOE and FEMA websites and from Ecology representatives:

<http://www.ecy.wa.gov/programs/sea/czm/prgm.html>

<http://www.ecy.wa.gov/programs/sea/czm/fed-consist.html>

<http://www.fema.gov/plan/ehp/ehplaws/czma.shtm>

The Washington Department of Ecology Federal Consistency Coordinator may be reached at (360) 407-6068.

## II. **NATIONAL HISTORIC PRESERVATION ACT (NHPA)** (Historic, Archaeological, and Cultural)

The [National Historic Preservation Act](#) (NHPA) requires FEMA to review the effects of demolition, repair, reconstruction and relocation on historic properties within the disaster area. Historic property is any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places. This term includes properties of traditional, religious, and cultural importance. Many properties are not on the National Register, but may be eligible for listing and are afforded the same review under NHPA. A copy of the NHPA may be downloaded at: <http://www.achp.gov/nhpa.html>.

Section 106 of the NHPA requires FEMA to consult with the State Historic Preservation Officer (SHPO) and to solicit input from interested parties (like special interest groups) on projects prior to providing federal funding. Any structure receiving federal assistance that is 50 years or older or otherwise has specific historical, cultural, or architectural significance must be reviewed under Section 106 **before** conducting any demolition, repair, reconstruction or relocation activity.

FEMA has entered into a Programmatic Agreement with the SHPO. The Programmatic Agreement lists activities that do not need a full review under Section 106. Often repair or reconstruction to the pre-disaster condition may meet the criteria for an expedited review and may require specific materials and craftsmanship for restoration. The FEMA Environmental/Historic Preservation Specialists will advise the Public Assistance Coordinators of those expedited processes. For more information on historic and cultural preservation after a disaster declaration, contact a member of the Environmental/Historic Preservation Team.

### ❖ **STRUCTURES AND BUILDINGS**

To expedite review by the SHPO for projects involving historic and potentially historic structures (i.e., buildings, bridges, or other structures), please provide the following information for inclusion in the Project Worksheet:

- Describe the property/structure(s), age, exact location and address, (including GPS coordinates, if possible). Also include, if known, current and past use.
- Include clear hard copy or digital photographs (no photocopies, please) of all sides of the structure. See Appendix B, How to Photograph Historic Structures.

### ❖ **RELOCATION AND NEW CONSTRUCTION (ARCHEOLOGICAL CONCERNS)**

Before beginning any project involving ground disturbance, such as leveling or digging utility trenches, the SHPO must review the area for archaeological concerns. Projects needing review include road realignment, utility relocation, material borrow pit construction, or new debris disposal sites. Archaeological concerns may not be immediately apparent to the average person, and care must be taken not to disturb sites containing clues to our history. Archaeological materials may include buried human remains, Native American campsites, stone tools, abandoned industrial facilities (factories or mines), historic house foundations, wells, outhouse pits, and trash scatters. **Failure to take appropriate care may disqualify projects from federal funding.**

The following must be submitted to the SHPO through FEMA prior to beginning any project on **previously undisturbed ground**:

- An accurate map of the project area with its boundary clearly indicated (the SHPO prefers a USGS topographic quad sheet, whenever available). For USGS topographic maps: <http://egsc.usgs.gov/isb/pubs/booklets/usgsmaps/usgsmaps.html>.
- A brief description of all proposed work, including depth, to determine subsurface impacts.

**PLEASE CEASE WORK IMMEDIATELY AND CALL THE SHPO IF ANY BURIED CULTURAL MATERIALS SUCH AS WELLS, CISTERNS, FOUNDATIONS, BASEMENTS, PREHISTORIC NATIVE AMERICAN ARTIFACTS, OR HUMAN BURIALS ARE ENCOUNTERED.**

Additional information may be obtained from:

- Dr. Allyson Brooks  
State Historic Preservation Officer (SHPO)  
Department of Archaeology and Historic Preservation (DAHP)  
(360) 586-3066  
[Allyson.Brooks@dahp.wa.gov](mailto:Allyson.Brooks@dahp.wa.gov)
- Rob Whitlam, PhD  
State Archaeologist (subsurface)  
Department of Archaeology and Historic Preservation  
(360) 586-3080  
[Rob.Whitlam@dahp.wa.gov](mailto:Rob.Whitlam@dahp.wa.gov)
- **Russell Holter**  
**Preservation Design Reviewer**  
Department of Archaeology and Historic Preservation  
(360) 586-3533  
[Russell.Holter@dahp.wa.gov](mailto:Russell.Holter@dahp.wa.gov)

#### ❖ **CERTIFIED LOCAL GOVERNMENT PROGRAM**

Washington State's Certified Local Government (CLG) Program helps local governments to actively participate in preserving Washington's irreplaceable historic and cultural resources as assets for the future. Responsibilities of a CLG include maintaining a historic preservation commission, surveying local historic properties, enforcing state or local preservation laws, reviewing National Register Nominations, and providing for public participation. An Applicant's request for funding assistance to repair or reconstruct damaged facilities needs to be coordinated with a CLG, when applicable. Documentation of this coordination effort should be supplied to a FEMA Public Assistance representative for inclusion in the project file. Please see the following website for a list of Certified Local Government programs in Washington State: <http://www.dahp.wa.gov/pages/LocalGovernment/Participants.htm>.

#### ❖ **CULTURAL AND TRIBAL RESOURCES**

The Northwest has a rich cultural resource environment and careful coordination and consultation with the Northwest Tribes may be required. In accordance with the NHPA and government-to-government agreements with Indian tribes, FEMA must consult with appropriate Tribal Historic Preservation Officers (THPO) or designated tribal representatives. FEMA will

coordinate when a proposed project repair or recovery action may affect traditional cultural properties or other significant cultural resources. If the Applicant has coordinated with tribal governments regarding repair and recovery actions, the Applicant should provide documentation of this coordination to a FEMA Public Assistance representative for inclusion in the project file. FEMA will review this documentation for sufficiency. If additional coordination is needed, FEMA will coordinate with the tribal governments and the Applicant.